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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,083	01/25/2002	Terry Chou	12675 B	8107

7590

11/21/2003

Charles E. Baxley  
59 John Street  
New York, NY 10038

EXAMINER
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WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 11/21/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/055,083

Applicant(s)

CHOU, TERRY

Examiner

Gary L. Welch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-3,8-12,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 4,6,7,13,15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment, filed 23 October 2003, has been reviewed and considered. Claim 1 has been amended, claims 5 and 14 have been canceled but rewritten as new claims 19 and 20 and the specification has been amended. Therefore, claims 1-4, 6-13 and 15-20 are currently pending. The amendments to the specification and the claims overcome the specification objections and prior art rejections raised in the first Office Action and therefore, they are withdrawn. However, an updated search and further review of the prior art of record has prompted the presentation of the following rejections. This action is considered a second non-final rejection

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

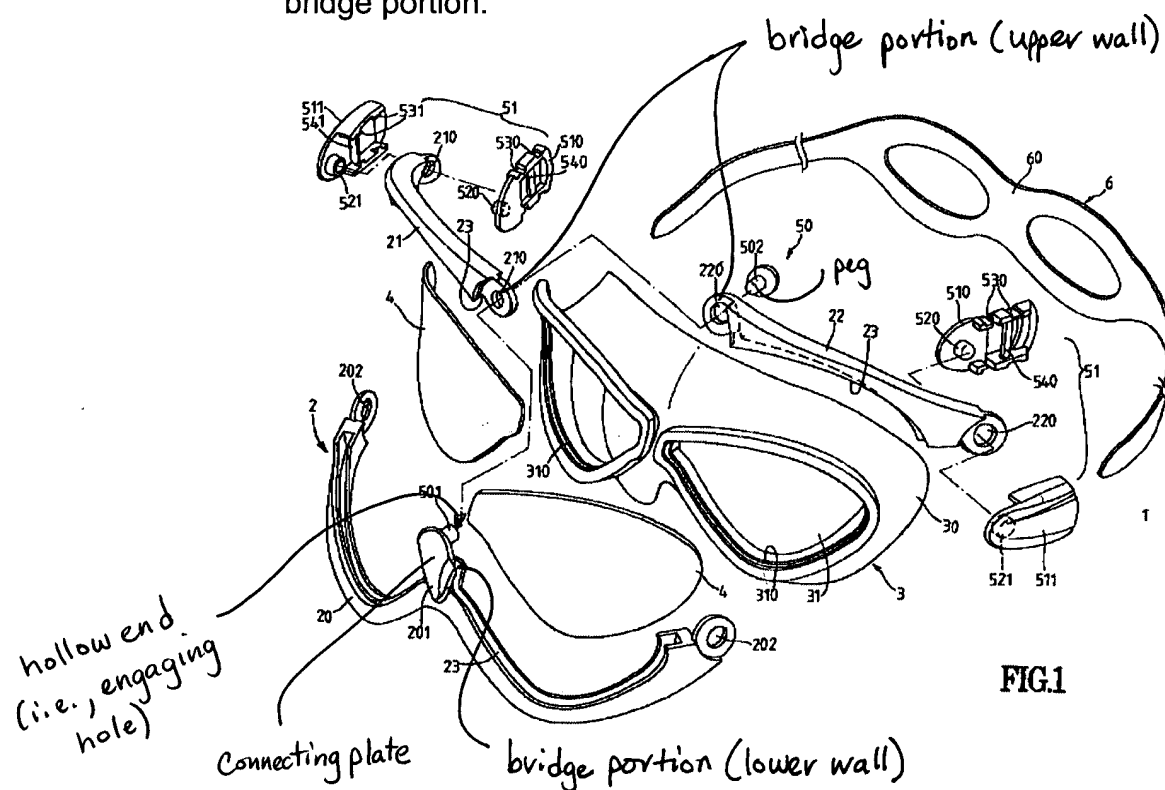
A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 8-10, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Chiang (U.S. 6,276,794).

Chiang discloses a lens/frame assembly for swimming goggles having a frame 2 made of a rigid material with slight flexibility and a lens holding compartment 23 having a bridge portion (see figure below) in the middle thereof. The bridge

portion has an upper wall and a lower wall. Two lenses 4 are tightly received in the lens-holding compartment 23 of the frame 2. A connecting block 201 is securely received in the bridge portion of the lens-holding compartment 23 and securely mounted to the frame 2 to thereby securely retain the lenses 4 in place. The connecting block 201 connects the upper wall and the lower wall of the bridge portion.



With regard to claims 8 and 17, the bridge portion of the frame 2 comprises two engaging pieces 502 respectively formed on an upper wall and a lower wall of the bridge portion. Each engaging piece 502 includes a peg, the connecting block comprises two engaging holes (see figure above) and each peg 502 extends through an associated one of the engaging holes of the connecting plate 201.

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With regard to claims 9 and 18, the connecting plate 201 is securely attached between the lenses 4.

With regard to claim 10, the invention is substantially disclosed above.

Furthermore, the swimming goggles include a strap 6 and padding members 30 that engages the lenses 4. The lenses 4 have flanges that are tightly received within the holding compartment 23.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiang (U.S. 6,276,794) in view of Jacobs (U.S. 4,973,212).

Chiang discloses the invention substantially as claimed above.

However, Chiang does not disclose that the connecting block comprises two pegs each having a snapping head with a diameter slightly greater than an inner diameter of an associated engaging hole and wherein the snapping head restores it's shape after it has passed through an associated engaging hole.

Jacobs teaches a snap-in fastener for securing an object to an apertured support. The fastener 10 has a shank 12, a snapping head 14 having a diameter slightly greater than an inner diameter of an associated engaging hole 22 so as

to ensure that an object is securely engaged with an apertured object to prevent inadvertent separation therebetween (Col. 3, lines 24-59). It is well known in the art that various types of fastening mechanisms are functionally equivalent and may be used interchangeably depending upon the desired aesthetic effect.

Therefore, the fastener 10 of Jacobs is functionally equivalent to the fastening mechanism of Chiang.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the pegs 501 and rivet 50 of Chiang with a fastener having a shank and enlarged head portion as taught by Jacobs since it is well known in the art that various types of fastening mechanisms are functionally equivalent and may be used interchangeably depending upon the desired aesthetic effect.

With regard to claim 3, the connecting plate 201 is securely attached between the lenses 4.

With regard to claims 11 and 12, the invention is disclosed in the above rejections.

***Allowable Subject Matter***

6. Claims 4, 6, 7, 13, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 19 and 20 are allowed.

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**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chou '909 and Chiang '384 and 420 and Garofalo '040 disclose a swimming goggle having a connecting block securing lenses to a frame assembly.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Gary L. Welch  
Primary Examiner  
Art Unit 3765

glw